

Banking, Commerce and Insurance Committee

**One Hundred Fourth Legislature
First Session – 2015**

SUMMARY OF 2015 LEGISLATION

Committee Members

**Senator Jim Scheer, Chairperson
Senator Matt Williams, Vice Chairperson
Senator Kathy Campbell
Senator Joni Craighead
Senator Mike Gloor
Senator Sara Howard
Senator Brett Lindstrom
Senator Paul Schumacher**

Committee Staff:

**William Marienau, Committee Counsel
Janice Foster, Committee Clerk**

MEMORANDUM

TO: Members of the Legislature and
Other Interested Persons

FROM: Senator Mike Gloor, Chairperson
Banking, Commerce and Insurance Committee

DATE: July 1, 2015

RE: Summary of 2015 Session Legislation

I am pleased to present, for your reference, the following summary of the provisions and disposition of all 2015 bills referenced to and considered by the Banking, Commerce and Insurance Committee.

I hope you find this summary helpful as you review our work as of the conclusion of the 2015 session. If you have questions or need additional information, please contact me or our committee staff: Bill Marienau, Legal Counsel or Janice Foster, Committee Clerk.

TABLE OF CONTENTS

LEGISLATIVE BILLS.....PAGE

ABSTRACTERS

LB269 (Hughes) Change a requirement regarding the preparation and distribution of a roster of registered abstracters.....	1
---	---

ACCOUNTANTS

LB159 (Hadley) Define and redefine terms under the Public Accountancy Act and provide for peer review.....	2
--	---

APPRAISERS

LB139 (Johnson) Change and eliminate provisions relating to the Real Property Appraiser Act.....	3
--	---

LB139A (Johnson) Appropriation Bill.....	4
--	---

BANKING AND FINANCE

LB145 (Watermeier) Change provisions governing active executive officers of banks and provide the Department of Banking and Finance with certain powers.....	5
--	---

LB155e (Williams) Change provisions relating to capital stock requirements, and clearing and settlement of checks, and cost of disclosure of confidential records.....	5
--	---

LB286e (Craighead) Revise powers of state-chartered banks, building and loan associations, and credit unions.....	6
---	---

LB352 (Scheer) Change provisions relating to the issuance of a mortgage banker license and duties of licensees.....	7
---	---

BONDS

LB67 (Schumacher) Provide for governmental unit bond priority.....	9
--	---

BUSINESS ENTITIES

LB35 (Howard) Change Business Corporation Act references.....	10
---	----

LB157 (McCollister) Change operative date provisions relating to the Nebraska Model Business Corporation Act.....	10
---	----

LB279e (Schumacher) Change provisions and fees relating to business entity reinstatements.....	10
--	----

LEGISLATIVE BILLS.....PAGE

CONDOMINIUMS

LB336 (B. Harr) Change provisions relating to the Nebraska Condominium Act.....12

ECONOMIC DEVELOPMENT

LB395 (Schilz) Adopt the Nebraska Enterprise Act and authorize grants for economic development.....13

LB457e (Gloor) Change the Site and Building Development Act and terminate a fund.....14

ELECTRONIC PAYMENT TRANSACTIONS

LB193 (Nordquist) Prohibit the collection of interchange fees on specified taxes and provide penalties.....16

LB348e (Krist) Change provisions relating to automatic teller machines and point-of-sale terminals.....16

INSURANCE

LB11 (Krist) Change participation and reimbursement provisions under the Managed Care Plan Network Adequacy Act.....19

LB48 (Scheer) Change unfair insurance trade practices relating to casualty losses.....19

LB51 (Scheer) Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act.....19

LB78 (Gloor) Change provisions relating to the public agencies authorized to enter into agreements under the Intergovernmental Risk Management Act.....20

LB79 (Gloor) Require insurance coverage for renewals of prescription eye drops.....20

LB124 (Nordquist) Provide requirements relating to copayments, coinsurance, and deductibles.....21

LB180 (Scheer) Redefine terms relating to title insurance business.....21

LB198 (Williams) Authorize licenses for limited line pre-need funeral insurance.....22

LB213 (Schumacher) Provide for withholding of insurance proceeds for demolition purposes.....23

LB234 (Krist) Change provisions relating to filing requirements of insurance companies.....24

LEGISLATIVE BILLS.....PAGE

LB257 (Nordquist) Require insurers to provide descriptions relating to telehealth and
Telemonitoring.....24

LB298 (Schumacher) Change provisions relating to credit for reinsurance.....24

LB341 (Howard) Provide requirements relating to health benefit plan coverage for
insureds in jail custody.....26

LB342 (Howard) Permit insurers to contract for pharmacist professional services.....27

LB451 (Hansen) Change and eliminate provisions relating to stacking of insurance
coverage.....27

LB456e (Gloor) Change provisions relating to the Nebraska Exchange Stakeholder
Commission.....28

LB458 (Kolterman) Authorize limited lines travel insurance producer licenses.....28

LB488 (Scheer) Adopt the Transportation Network Insurance Act.....28

LB531 (Kolterman) Provide requirements for publication of insurance information.....30

LB553 (Gloor) Change insurance provisions relating to dental services.....30

LB628 (Schilz) Provide for electronic posting of property and casualty insurance
policies and notices related to such policies.....31

LB632 (Scheer) Prohibit employers and associations from precluding certain
contracts relating to health benefit plans.....31

INVESTMENT FINANCE

LB515 (Craighead) Change an aggregate loan limit for agricultural projects under
the Nebraska Investment Finance Authority Act.....33

LIENS

LB464 (B. Harr) Change information provided on effective financing statements.....34

PARTNERSHIPS

LB247 (Sullivan) Change an interest rate provision in the Uniform Partnership
Act of 1998.....35

REAL ESTATE

LB375 (Craighead) Change provisions relating to broker’s price opinions and
comparative market analysis.....36

LEGISLATIVE BILLS.....PAGE

RESIDENTIAL CONTRACTORS

LB223 (B. Harr) Change provisions of the Insured Homeowners Protection Act relating to contractor duties and prohibited acts and provide for a required notice.....37

SECURITIES

LB226 (Coash) Authorize crowdfunding as prescribed and exempt crowdfunding under the Securities Act of Nebraska.....39

LB252 (Schumacher) Change provisions relating to registration by coordination and federal covered securities under the Securities Act of Nebraska.....40

SOCIAL SECURITY NUMBERS

LB115 (Scheer) Prohibit certain actions related to social security numbers.....42

MISCELLANEOUS

List of Interim Study Resolutions.....43

List of Interim Study Priorities.....44

Interim Study Resolutions as introduced

ABSTRACTERS

LB269 (Hughes) Change a requirement regarding the preparation and distribution of a roster of registered abstracters

Enacted

Effective August 30, 2015

This bill amends section 76-550 of the Abstracters Act, which requires the Abstracters Board of Examiners to prepare a roster showing the names and places of business of abstracters holding an operative certificate of registration. The bill requires that the roster shall be maintained and updated at least annually on the board's web site in a printable format. The bill repeals the requirement that the roster shall be prepared during the month of June of each even-numbered year, sent to all registered abstracters, and furnished to the public on request at cost.

The bill passed 47-0-2 on February 27, 2015 and was approved by the Governor on March 5, 2015.

ACCOUNTANTS

LB159 (Hadley) Define and redefine terms under the Public Accountancy Act and provide for peer review

Enacted

Effective August 30, 2015

This bill amends sections 1-105 and 1-106 of the Public Accountancy Act to authorize the Nebraska State Board of Public Accountancy to require, by rule and regulation, firms to (1) enroll in and comply with a board-approved peer review program and (2) comply with all restrictions placed on a permit in response to the results of a peer review.

The bill defines “peer review” as a review of the professional work of a firm that either or both performs attest engagements or performs compilations. The review would be made by an active certified public accountant who is the holder of a permit issued by the Nebraska board or the equivalent issued by another state.

The bill passed 49-0-0 on February 20, 2015 and was approved by the Governor on February 26, 2015.

APPRAISERS

LB139 (Johnson) Change and eliminate provisions relating to the Real Property Appraiser Act

Committee Priority Bill

Enacted

Effective August 30, 2015

This bill, introduced at the request of the Real Property Appraiser Board, updates and adds provisions throughout the Real Property Appraiser Act, sections 76-2201 to 76-2250.

The bill updates, rearranges, and adds new definitions. The following definitions are revised: “appraisal”; “appraisal practice” (valuation assignments or evaluation assignments performed by a person acting as a real property appraiser, including appraisal and appraisal review assignments); “real property appraisal activity” (any act or process involved in developing an analysis, opinion, or conclusion relating to the value of specified interests in or aspects of identified real property. Real property appraisal activity includes evaluation assignments, valuation assignments, and appraisal review assignments); “report”; and “two-year continuing education period”. The following definitions are new: “appraisal review assignment” (the act or process of developing and communicating an opinion about the quality of a real property appraiser’s work that was performed as part of a valuation assignment or evaluation assignment); “assignment” (an agreement between a real property appraiser or real property associate and a client to perform a valuation service or the valuation service that is performed as a consequence of such an agreement); “client”; “credential holder”; “education provider”; “instructor”; “jurisdiction”; “person”; “real property associate”; “report”; “scope of work”; “valuation services” (all services pertaining to aspects of property value, including services performed by both real property appraisers and real property associates); and “workfile”. (Sections 3 to 39)

The bill authorizes the board to issue a cease and desist order against any person who acts as a real property appraiser or real property associate without the appropriate credential. The bill authorizes the board, through the Attorney General, to obtain an order from the district court for the enforcement of the cease and desist order. (Section 40)

The bill provides that beginning on its effective date (August 30, 2015), there shall be a one-year moratorium on enforcement action by the board involving mass appraisals conducted under the authority of any county assessor by employees or independent contractors. (Section 71)

The bill passed 45-0-4 on April 7, 2015 and was approved by the Governor on April 13, 2015.

Note: LR258 (Johnson) calls on the Banking, Commerce and Insurance Committee to conduct an interim study to determine whether the Real Property Appraiser Act should be amended.

LB139A (Johnson) Appropriation Bill

Enacted

Effective August 30, 2015

This bill appropriates \$18,290 for FY2015-16 and for FY2016-17 from the Real Property Appraiser Fund to the Real Property Appraiser Board to carry out LB139.

The bill passed 44-0-5 on April 7, 2015 and was approved by the Governor on April 13, 2015.

BANKING AND FINANCE

LB145 (Watermeier) Change provisions governing active executive officers of banks and provide the Department of Banking and Finance with certain powers

Indefinitely Postponed in Committee

This bill would amend sections 8-139 and 8-157 of the Nebraska Banking Act to alter the regulatory duties of the Director of Banking and Finance with regard to active executive officers of state-chartered banks.

The bill would eliminate the requirement for an active executive officer to obtain a license from the Department of Banking and Finance in order to so act. The bill would authorize the department to suspend the authority of an active executive officer found to be conducting business in an unsafe or unauthorized manner or endangering the interests of the stockholders or depositors. The bill would further authorize the director, as part of a suspension order, to levy a civil penalty against the executive officer personally in an amount not to exceed ten thousand dollars.

The bill would define an “active executive officer” of a state-chartered bank as an employee or person under contract who exercises management functions, major policymaking functions, or substantial employee supervision.

LB155e (Williams) Change provisions relating to capital stock requirements, and clearing and settlement of checks, and cost of disclosure of confidential records

Enacted

Effective March 19, 2015

This bill amends various sections with regard to banks.

Section 1 amends section 8-116 of the Nebraska Banking Act to eliminate the requirement that an applicant for a state bank charter shall have a minimum paid-up capital stock in amounts categorized by the population of the village, city, or county of location. The bill provides a requirement that a state bank charter shall not be issued unless the applicant has surplus and paid-up capital stock in an amount not less than the amount necessary to obtain Federal Deposit Insurance Corporation coverage for a newly chartered bank.

Section 2 amends section 8-128 of the Nebraska Banking Act to provide that a notice containing a statement of any proposed reduction of paid-in capital stock by a state-chartered bank shall be published for “two” weeks rather than “four” weeks in some newspaper published and of general circulation in the county where the bank is located.

Section 3 amends section 8-153 of the Nebraska Banking Act to provide that with regard to the requirement that all checks drawn on a state-chartered bank shall be cleared “at par” by the bank on which they are drawn, the term “at par” applies only to the settlement of checks between collecting and paying or remitting banks and does not apply to a fee deducted from the face amount of the check for paying the check if the check is presented to the bank by the payee in person.

Section 4 amends section 8-1402 which provides that any person, party, agency, or organization requesting disclosure of confidential records or information pursuant to section 8-1401 shall pay the costs of providing such records or information. Section 8-1402 provides that the requesting person, party, agency, or organization shall pay the actual cost of providing the records or information and the bill amends this section to define what are the “actual costs” of providing records and information as they regard search and processing costs, reproduction costs, and transportation costs. The bill eliminates an exception to this requirement if the rules for discovery promulgated by the Nebraska Supreme Court pursuant to section 25-1273.01 of the Civil Procedure Code provide for the method of payment.

Section 5 provides for repeal of the amendatory sections.

Section 6 provides for the emergency clause.

The bill passed 44-0-5 with the emergency clause on March 12, 2015 and was approved by the Governor on March 18, 2015.

LB286e (Craighead) Revise powers of state-chartered banks, building and loan associations, and credit unions

Enacted

Effective March 6, 2015

This bill, introduced at the request of the Director of Banking and Finance, amends various sections relating to powers of state-chartered financial institutions. Due to state constitutional restrictions on delegation of legislative authority, these sections are amended annually.

The bill provides, section by section, as follows:

Section 1 amends section 8-1,140 of the Nebraska Banking Act, which is the “wild-card” statute for state-chartered banks. This section is amended to provide that a state-chartered bank shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2015, rather than January 1, 2014, by a federally chartered bank doing business in Nebraska.

Section 2 amends section 8-355, which is the “wild-card” statute for state-chartered savings and loan associations. This section is amended to provide that a state-chartered savings association shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2015, rather than January 1, 2014, by a federal savings and loan association doing business in Nebraska.

Section 3 amends section 21-17,115 of the Nebraska Credit Union Act, which is the “wild-card” statute for state-chartered credit unions. This section is amended to provide that a state-chartered credit union shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2015, rather than January 1, 2014, by a federal credit union doing business in Nebraska.

Section 4 provides for repeal of the amendatory sections.

Section 5 provides for the emergency clause.

The bill passed 47-0-2 with the emergency clause on February 27, 2015 and was approved by the Governor on March 5, 2015.

LB352 (Scheer) Change provisions relating to the issuance of a mortgage banker license and duties of licensees

Enacted

Effective August 30, 2015

This bill, introduced at the request of the Director of Banking and Finance, amends three sections of the Residential Mortgage Licensing Act.

The bill provides, section by section, as follows:

Section 1 amends section 45-706 to provide that if applicants for mortgage banker licenses do not complete an application and fail to respond to deficiency notices from the department for 120 days or more, then the department may deem the application as abandoned and issue notices of abandonment to those applicants in lieu of denial proceedings.

Section 2 amends section 45-737 of the Residential Mortgage Licensing Act in two ways:

An amendment to subdivision (6) changes the time required for mortgage banker licensees to deliver payoff statements on residential mortgage loans from ten business days to seven business days after receipt of a written request. The amendment comports with a revision to the federal Truth-in-Lending Act, 15 USC 1639g.

An amendment to subdivision (8) changes the records retention requirement for mortgage banker licensees from two years to three years. The amendment reflects revisions made

to the federal Truth-in-Lending Act and the federal Real Estate Settlement Procedures Act for the disclosure documents required by those laws. Under this subdivision, mortgage bankers are required to maintain copies of all documents and records relating to residential mortgage loans and applications for residential mortgage loans.

Section 3 provides for repeal of the amendatory sections.

The bill passed 47-0-2 on March 6, 2015 and was approved by the Governor on March 12, 2015.

BONDS

LB67 (Schumacher) Provide for governmental unit bond priority

Senator Priority Bill (Ebke) Pending on Select File

This bill would amend the sections of the Nebraska Governmental Unit Security Interest Act, sections 10-1101 to 10-1106, and rename the act the Nebraska Governmental Unit Security Interest and Pledge Act.

The bill would create a statutory lien and grant a security interest on ad valorem taxes and bond-pledged revenue sources of the issuing governmental unit with respect to general obligation bonds and limited tax bonds. The lien would be valid, binding, and prior against all parties having claims against the governmental unit in a bankruptcy filing.

ADOPTED GENERAL FILE AMENDMENTS

Amendments adopted on General File would provide that the act as amended by this bill would govern the perfection, priority, and enforcement of all security interests created by governmental units, except security interests in retirement accounts, pension funds and any other vested post-employment benefit whether such benefit is then payable or payable in the future contingent upon a future qualifying event.

BUSINESS ENTITIES

LB35 (Howard) Change Business Corporation Act references

Enacted

Operative January 1, 2017

This bill amends 10 sections of the Nebraska Benefit Corporation Act (Chapter 21, article 4) and one section of the Rural Community-Based Energy Development Act to provide that references within them to business corporation statutes shall be to the Nebraska Model Business Corporation Act (Chapter 21, article 2), operative on January 1, 2017, and no longer to the Business Corporation Act (Chapter 21, article 20), repealed as of January 1, 2017. This operative/repeal date of January 1, 2017 is established by LB157 (McCollister).

The bill passed 44-0-5 on March 12, 2015 and was approved by the Governor on March 18, 2015.

LB157 (McCollister) Change operative date provisions relating to the Nebraska Model Business Corporation Act

Enacted

Operative January 1, 2017, except sections 10, 11, and 13 become operative on August 30, 2015 (effective date of the bill)

This bill amends various sections of the Nebraska Model Business Corporation Act, sections 21-201 to 21-2,232, enacted as LB749, Laws 2014, to provide that the act shall become operative on January 1, 2017 rather than on January 1, 2016.

The bill passed 49-0-0 on February 20, 2015 and was approved by the Governor on February 26, 2015.

Note: LR263 (B. Harr) calls on the Banking, Commerce and Insurance Committee to conduct an interim study to examine possible changes to the Nebraska Model Business Corporation Act before it becomes operative.

LB279e (Schumacher) Change provisions and fees relating to business entity reinstatement

Enacted

Operative January 1, 2017, except sections 1, 2, 6 to 16, 18, and 20 become operative on March 19, 2015 (effective date of the bill)

Prior to this legislation, domestic limited liability companies, business corporations, nonprofit corporations, and limited cooperative associations that were administratively or automatically dissolved by the Secretary of State could apply to the Secretary of State for reinstatement within five years. Foreign business corporations and nonprofit corporations, the certificate of authority of which had been revoked by the Secretary of State, could apply to the Secretary of State for reinstatement within five years.

This bill amends sections 21-152 and 21-192 of the Nebraska Uniform Limited Liability Company Act, sections 21-205, 21-2,195, and 21-2,219 of the Nebraska Model Business Corporation Act (operative as of January 1, 2017), sections 21-323.01 and 21-325.01 of the corporate occupation tax statutes, sections 21-1905, 21-19,139, and 21-19,159 of the Nebraska Nonprofit Corporation Act, sections 21-2005, 21-20,160, and 21-20,180.01 of the Business Corporation Act (repealed as of January 1, 2017), and section 21-2995 of the Nebraska Limited Cooperative Association Act to provide for application to the Secretary of State for reinstatement more than five years after dissolution or revocation if the application states a legitimate reason for reinstatement that does not constitute fraud on the public and there is payment of a reinstatement fee.

Generally, these entities are subject to dissolution or revocation for failure to pay fees, taxes, or penalties when due; failure to deliver a biennial report when due; or failure to maintain a registered office or registered agent in this state.

The bill passed 43-0-6 with the emergency clause on March 12, 2015 and was approved by the Governor on March 18, 2015.

CONDOMINIUMS

LB336 (B. Harr) Change provisions relating to the Nebraska Condominium Act

Pending in Committee

This bill would amend the Nebraska Condominium Act to change requirements regarding unit owner votes for certain decisions.

The bill would provide, section by section, as follows:

Section 1 would amend section 76-854 to eliminate the requirement that no amendment to the declaration may increase the number of units, or change boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted in the absence of the unanimous consent of the unit owners. This section would provide that no amendment to the declaration may change the boundaries of any unit, the allocated interests of any unit, or the uses to which any unit is restricted without the consent of the owner of the unit.

Section 2 would amend section 76-855 to provide that a condominium may be terminated only by agreement of unit owners of units to which at least "sixty-seven" rather than "eighty" percent of the votes in the unit owners association are allocated, or any larger percentage the declaration specifies.

Section 3 would amend section 76-870 to provide that portions of the common elements may be conveyed or subjected to a security interest by the unit owners association if persons entitled to cast at least "sixty-seven" rather than "eighty" percent of the votes in the association, including "sixty-seven" rather than "eighty" percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action.

Section 4 would amend section 76-871 to provide that any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the unit owners association unless, among other things, "sixty-seven" rather than "eighty" percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

Section 5 would provide for repeal of the amendatory sections.

ECONOMIC DEVELOPMENT

LB395 (Schilz) Adopt the Nebraska Enterprise Act and authorize grants for economic development

Pending in Committee

This bill would enact 11 new sections to be known as the Nebraska Enterprise Act to create a fund out of which the Nebraska Enterprise Fund Authority, created by this act, would award grants for business recruitment and relocation, capital improvement, and infrastructure development.

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Nebraska Enterprise Act.

Section 2 would enact a new section to provide that the purpose of the act is: to provide business recruitment closure incentives; to attract new jobs and investment in Nebraska; to provide grants for capitalization needs of new and expanding businesses; to provide front-end assistance to businesses; to foster economic development; and to broaden the tax base, generate revenue, and reduce property taxes.

Section 3 would enact a new section to provide for definitions of “authority” (Nebraska Enterprise Fund Authority) and “department” (Department of Economic Development).

Section 4 would enact a new section to provide for creation of the Nebraska Enterprise Fund Authority to consist of nine voting members appointed by the Governor and confirmed by the Legislature: four members who have experience in working with companies that have worked on economic development initiatives; one member who has experience as a small business owner; one member who has experience as a business executive in a business that works on economic development initiatives; three members who are residents of rural counties; and two non-voting members who are members of the Legislature.

Section 5 would enact a new section to provide for creation of the Nebraska Enterprise Fund to consist of: amounts appropriated by the Legislature; interest earned on money in the fund; and gifts, grants, and other donations. This section would provide that the fund shall be administered by the authority and shall be used to award grants for business recruitment and relocation, capital improvement, and infrastructure development.

Section 6 would enact a new section to provide that the authority may negotiate, on behalf of the state, the awarding of grants from the Nebraska Enterprise Fund. This section would provide that a grant applicant shall meet stated requirements and that the authority shall enter into a written agreement with the grant recipient.

Section 7 would enact a new section to provide that before the authority awards a grant, it shall prepare a statement that assesses the direct economic impact that approval of the grant will have on the residents of the state.

Section 8 would enact a new section to provide that the authority shall give priority to: grants to small businesses that commit to using the grants to create additional jobs; grants to small businesses from outside the state that commit to relocate to this state; and grants for projects that create one hundred or fewer additional jobs.

Section 9 would enact a new section to provide that an agreement entered into under the act may be amended by the authority and the grant recipient.

Section 10 would enact a new section to provide that each grant recipient shall submit an annual progress report to the authority.

Section 11 would enact a new section to provide that the authority shall submit an annual report to the Legislature on grants made under the act.

LB457e (Gloor) Change the Site and Building Development Act and terminate a fund

Speaker Priority Bill

Enacted

Effective May 30, 2015

This bill amends various sections regarding site and building development assistance from the Department of Economic Development (DED).

The bill amends sections 81-12,146 and 81-12,147 of the Site and Building Development Act to create an additional category of activities that are eligible for assistance from the Site and Building Development Fund: projects that mitigate the economic impact of a closure or downsizing of a private-sector entity by making necessary improvements to buildings and infrastructure. (Sections 3 and 4)

The bill amends section 81-1213 to provide for the termination of the Industrial Recovery Fund on the effective date of the bill (May 30, 2015). Upon termination, fifty percent of the money in the fund shall be transferred to the Site and Building Development Fund and fifty percent shall be transferred to the Affordable Housing Trust Fund. This section has authorized DED to provide funds for assistance to political subdivisions impacted by a sudden and significant private-sector entity closure or downsizing. (Section 2)

The bill amends section 58-708 of the Nebraska Affordable Housing Act to provide that funds allocated by DED under the act that were recaptured because they were not utilized shall be credited to the Affordable Housing Trust Fund instead of to the Industrial Recovery Fund (the fund terminated by section 2 of this bill). (Section 1)

The bill passed 46-0-3 on May 29, 2015 with the emergency clause and was approved by the Governor on May 29, 2015.

ELECTRONIC PAYMENT TRANSACTIONS

LB193 (Nordquist) Prohibit the collection of interchange fees on specified taxes and provide penalties

Pending in Committee

This bill would enact seven new sections to prohibit the collection of interchange fees on certain taxes or fees in the case of electronic payment transactions initiated by debit card or credit card. The bill would provide that (1) the amount of any state or local tax or fee that is calculated as a percentage of an electronic payment transaction amount and listed separately on the invoice or (2) the amount of any motor fuel taxes shall be excluded from the amount of the interchange fee charged for that electronic payment transaction.

The bill would provide the Attorney General with enforcement authority. Intentional violations would be subject to court-imposed civil penalties of not less than one thousand dollars nor more than five thousand dollars per violation. The court would be authorized to order equitable relief. Persons paying interchange fees in violation of the bill would be allowed to seek actual damages.

The bill would provide that if it were held invalid with regard to a federally chartered financial institution, then the bill shall be equally invalid with regard to a financial institution licensed by or operating in this state. The bill would provide that it is not severable.

The bill would provide that it shall be applicable to electronic payment transactions processed on or after October 1, 2015.

LB348e (Krist) Change provisions relating to automatic teller machines and point-of-sale terminals

Committee Priority Bill

Enacted

Effective May 14, 2015

This bill amends sections 8-101 and 8-157.01 the Nebraska Banking Act to enact new provisions regarding automatic teller machines (ATM) and point-of-sale (POS) terminals.

The bill provides that, beginning November 1, 2016, (1) all automatic teller machines (ATMs) shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution, and (2) all ATM transactions initiated by Nebraska customers of a user financial institution shall be made on a nondiscriminating basis. (Section 8-157.01(3)(a))

The bill provides that a switch (1) shall provide to financial institutions an equal opportunity to participate in the switch, (2) shall implement the same ATM usage fee for all user financial institutions for essentially the same service, (3) shall be capable of operating to accept and route Nebraska ATM transactions, and (4) shall be capable of being connected to every data processing center for any ATM. (Section 8-157.01(3)(d))

The bill provides that no user financial institution or establishing financial institution shall be required to become a member of any particular switch. (Section 8-157.01(3)(f))

The bill repeals the provisions that regulate point-of-sale (POS) terminals. The bill provides that nothing in section 8-157.01, as amended, shall prevent a financial institution which has a main office or branch in Nebraska from participating in a national ATM program to allow its customers to use ATMs outside Nebraska which are established by out-of-state financial institutions or foreign financial institutions or to allow customers of out-of-state financial institutions or foreign financial institutions to use its ATMs. Such participation or ATM usage fees charged or received shall not be considered for determining noncompliance with section 8-157.01(3). (Section 8-157.01(10))

The bill provides that switch fees shall not be subject to regulation by the Department of Banking and Finance. (Section 8-157.01(12))

The bill provides that nothing in section 8-157.01, as amended, shall prohibit a group of credit unions from participating in a credit union service organization organized on or before January 1, 2015, for the purpose of owning ATMs. Such participation and any ATM usage fees associated with Nebraska ATM transactions initiated by customers of participating credit unions shall not be considered for determining noncompliance with section 8-157.01. (Section 8-157.01(13))

The bill provides that the Department of Banking and Finance shall take no enforcement action under section 8-157.01, as amended, between the effective date of the bill (May 14, 2015) and November 1, 2016, with respect to access to ATMs, Nebraska ATM usage fees, or any agreements relating Nebraska ATM usage fees which existed on the effective date of the bill, except for changes in ATM usage fees announced prior to the effective date of the bill. (Section 8-157.01(14)(a))

The bill provides that Nebraska ATM usage fees or agreements relating to Nebraska ATM usage fees in effect on the effective date of the bill (May 14, 2015) shall remain unchanged until April, 1 2016, except for changes in ATM usage fees announced prior to the effective date of the bill. (Section 8-157.01(14)(b))

The bill provides that there shall be a moratorium on the implementation of any agreement with new members relating to Nebraska ATM usage fees between the effective date of the bill (May 14, 2015) and April 1, 2016, except for changes in ATM usage fees announced prior to the effective date of the bill. (Section 8-157.01(14)(c))

The bill provides that any agreement implemented on or after April 1, 2016, relating to Nebraska ATM usage fees shall comply with section 8-157.01(3). (Section 8-157.01(14)(d))

The bill provides that, commencing November 1, 2016, Nebraska ATM usage fees and any agreements relating to Nebraska ATM usage fees shall comply with section 8-157.01(3). (Section 8-157.01(14)(e))

The bill moves a definition of “personal identification number” from section 8-157.01 to section 28-636 regarding criminal impersonation.

The bill passed 49-0-0 with the emergency clause on May 7, 2015 and was approved by the Governor on May 13, 2015.

INSURANCE

LB11 (Krist) Change participation and reimbursement provisions under the Managed Care Plan Network Adequacy Act

Pending in Committee

This bill would amend section 44-7105 of the Managed Care Plan Network Adequacy Act to provide that a health carrier shall not deny participation by or reimbursement to a provider providing services to a covered person solely based on a familial relationship between the provider and the covered person.

The bill carries the emergency clause.

LB48 (Scheer) Change unfair insurance trade practices relating to casualty losses

Pending in Committee

This bill would amend section 44-1525 of the Unfair Insurance Trade Practices Act to provide that the following acts or practices by an insurer shall be unfair trade practices in the business of insurance:

- (1) Refusing to issue, refusing to renew, canceling, or limiting the amount of coverage on a property and casualty risk due to a weather-related casualty to the risk under a homeowner's policy unless the policyholder failed to make repairs for a prior weather-related casualty to the risk;
- (2) Surcharging a policyholder for a property and casualty loss under a homeowner's policy on which the insurer did not pay a claim; and
- (3) Surcharging a policyholder for a property and casualty loss under a homeowner's policy due to a weather-related casualty to a previously occupied or noncovered property.

AMENDMENTS ADOPTED IN COMMITTEE

Amendments adopted in committee would change "weather-related" casualty to "wind or hail" casualty.

LB51 (Scheer) Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act

Pending in Committee

This bill would enact a new section in the Intergovernmental Risk Management Act to provide that before a public agency takes official action to become a member of a risk management pool, the pool shall provide each member of the governing body of the public agency with a written disclosure form containing specific information and statements.

The required information in the disclosure form would include: (1) any mandatory term of membership; (2) the name and location of any third party administrator providing services for the pool; (3) a list of insurers providing excess insurance or reinsurance coverage for the pool; (4) deductible levels and the maximum level of claims the pool will self-insure; and (5) the requirements for voluntary termination of membership in the pool.

The required statements in the disclosure form would express that: (1) termination of membership in a pool does not release a member from continued liability for contractual obligations already entered into; (2) members may have joint and several liability for financial obligations of the pool; (3) a pool is not an insurance company or a member of a guaranty association; and (4) a pool is issued a certificate of authority by the Department of Insurance and is examined every four years.

The bill would also amend section 44-4309 of the Intergovernmental Risk Management Act to provide that a member of a pool may voluntarily terminate participation in the pool by giving notice to the other members of the pool and the Director of Insurance at least “thirty” days rather than “ninety” days prior to the desired termination date.

LB78 (Gloor) Change provisions relating to the public agencies authorized to enter into agreements under the Intergovernmental Risk Management Act

Pending in Committee

This bill would amend section 44-4304 of the Intergovernmental Risk Management Act to eliminate the prohibition against school districts and educational service units becoming members of a risk management pool for the purpose of providing health, dental, accident, and life insurance to member’s employees and officers.

LB79 (Gloor) Require insurance coverage for renewals of prescription eye drops

Pending in Committee

This bill would enact a new section to provide that individual and group health policies, certificates, contracts, or plans that provide coverage for prescription eye drops shall include coverage for a renewal when (1) the prescribing health care professional indicates on the original prescription that renewals are needed, (2) the renewal requested does not exceed the number of authorized renewals, and (3) the renewal is requested within thirty

days after the date the original prescription was distributed or within thirty days after the date the last renewal was distributed.

LB124 (Nordquist) Provide requirements relating to copayments, coinsurance, and deductibles

Pending in Committee

This bill would enact a new section to provide that a health insurer shall not charge a copayment, coinsurance, or deductible for services rendered for each date of service by or separate office visit with a physical therapist, occupational therapist, audiologist, speech-language pathologist, or chiropractic physician that is greater than the copayment, coinsurance, or deductible charged for the services of a primary care physician or an osteopathic physician for such services.

LB180 (Scheer) Redefine terms relating to title insurance business

Enacted

Effective August 30, 2015

This bill, introduced at the request of the Director of Insurance, expands the definition of title insurance to include insurance guaranteeing or indemnifying owners of personal property or secured parties against loss or damage pertaining to title, liens, encumbrances upon, or security interests in personal property or fixtures.

The bill provides, section by section:

Section 1 amends section 44-201 by adding to the description of title insurance in subdivision (15) insurance guaranteeing or indemnifying owners of personal property or secured parties or others interested therein against loss or damage pertaining to adverse claims to title, liens, encumbrances upon, or security interests in personal property or fixtures, including the existence or non-existence of attachment, perfection, or priority of security interests in personal property or fixtures under the Uniform Commercial Code or other laws, rules, or regulations establishing procedures for the attachment, perfection, or priority of security interests in personal property or fixtures or the accuracy or completeness of the search or filing results obtained from public registries established for determining liens or security interests in personal property or fixtures or the existence or non-existence of protected purchaser status under the Uniform Commercial Code.

Section 2 amends section 44-1981 of the Title Insurers Act to amend the definitions of “title insurance business or business of title insurance” and “title insurance policy”. “Title insurance business” is amended to add specific actions related to title insurance on personal property or fixtures such as search of public registries. “Title insurance policy” is amended to expand the definition to include contracts insuring or indemnifying owners

or secured parties or others against loss or damage pertaining to adverse claims to title, liens, encumbrances upon, or security interests in personal property or fixtures.

Section 3 provides for repeal of the amendatory sections.

The bill passed 45-0-4 on March 6, 2015 and was approved by the Governor on March 12, 2015.

LB198 (Williams) Authorize licenses for limited line pre-need funeral insurance

Enacted

Effective August 30, 2015

This bill amends the insurance producer prelicensing and continuing education requirements to provide for a new limited line for sale of pre-need funeral insurance.

The bill provides, section by section, as follows:

Section 1 amends section 44-3904 to provide that a licensee qualified to solicit only limited line pre-need funeral insurance shall complete (1) three hours of continuing education activities in each two-year period if such licensee holds a state license as a funeral director or embalmer or (2) six hours of continuing education activities in each two-year period if such licensee does not hold a state license as a funeral director and embalmer.

Section 2 amends section 44-3909 to provide that an individual seeking a license to sell limited line pre-need funeral insurance shall complete (1) three hours of prelicensing education on insurance industry ethics in addition to three hours in the area of life insurance if such individual holds a state license as a funeral director and embalmer or (2) five hours in the area of life insurance if such individual does not hold a state license as a funeral director or embalmer.

Section 3 amends section 44-4049 of the Insurance Producers Licensing Act to define “limited line pre-need funeral insurance” as life insurance or a fixed annuity contract to pay the costs of funeral services or funeral service merchandise to be purchased from a funeral home or cemetery.

Section 4 amends section 44-4054 of the Insurance Producers Licensing Act to provide that an insurance producer may receive qualification for a license in a new line of authority: “limited line pre-need funeral insurance.”

The bill was passed 49-0-0 on February 20, 2015 and was approved by the Governor on February 26, 2015.

LB213 (Schumacher) Provide for withholding of insurance proceeds for demolition purposes

Indefinitely Postponed in Committee

This bill would enact a new section to provide for the withholding by a property and casualty insurer of insurance proceeds in a demolition cost reserve for the benefit of a city, village, or county if damaged real property is located within the city or village or within the county outside a city or village.

The new section would provide as follows:

Subsection (1) would provide that after an insurer makes payment to all mortgagees on a fire and casualty insurance policy on any real property covered by such policy, the insurer shall reserve ten thousand dollars or ten percent of the coverage limit, whichever is greater, to be held as a demolition cost reserve if (a) the real property is located within the limits of a city or village or within a county outside of a city or village, including within the zoning jurisdiction of such city or village, (b) the damage to the real property renders the property uninhabitable or unfit for its intended use without repair, and (c) proof of loss has been submitted by the policyholder to the insurer for a sum in excess of seventy-five percent of the face value of the policy.

Subsection (2) would provide that if the insurer receives proof of loss, it shall notify the clerk of the city, village, or county of the existence of the demolition cost reserve.

Subsection (3) would provide that the city, village, or county shall release all interest in the demolition cost reserve within 180 days of notice unless the city, village, or county has instituted legal proceedings or issued a demolition order.

Subsection (4) would provide that a demolition cost reserve shall not be required if (a) the insurer has received notice from the insured and the city, village, or county that the real property has been replaced or rebuilt, repairs have been completed, or demolition has been completed, or (b) the city or village has failed to notify the insurer that it has instituted legal proceedings or issued a demolition order.

Subsection (5) would provide that if the city, village, or county has instituted legal proceedings, issued an order for demolition, undertaken emergency action, or is required to demolish the real property at its expense, the city, village, or county shall present to the insurer a report of demolition costs. Upon receipt of the report, the insurer shall compensate the city, village, or county up to the amount in the demolition cost reserve. Any amount remaining shall be paid to the insured if the insured is entitled to it.

Subsection (6) would provide that the insurer is not liable for any demolition costs (a) not covered under the policy, (b) in excess of policy liability limits, or (c) to the extent the demolition cost reserve amount is needed to pay any interest of a mortgagee on the policy.

Subsection (7) would provide that an insurer and its agent that complies with this section shall be immune from any civil liability.

LB234 (Krist) Change provisions relating to filing requirements of insurance companies

Pending on General File

Section 44-322 currently requires every insurance company holding a certificate of authority to transact the business of insurance in Nebraska to annually file the salaries and compensation of its officers with the Director of Insurance. This bill would amend section 44-322 to require that such information shall be maintained as confidential by the director and shall not be subject to disclosure by the director to persons outside of the Department of Insurance except as agreed to by the insurance company or as ordered by a court of competent jurisdiction.

LB257 (Nordquist) Require insurers to provide descriptions relating to telehealth and telemonitoring

Enacted

Effective August 30, 2015

This bill enacts a new section to provide that a health insurer shall provide upon request to a policyholder, certificate holder, or health care provider a description of the telehealth and telemonitoring services covered under the relevant policy, certificate, contract, or plan.

“Telehealth” is defined as the use of medical information electronically exchanged from one site to another to aid a health care provider in the diagnosis or treatment of a patient. “Telemonitoring” is defined as the remote monitoring of a patient’s vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.

The bill passed 49-0-0 on May 20, 2015 and was approved by the Governor on May 26, 2015.

LB298 (Schumacher) Change provisions relating to credit for reinsurance

Enacts

Effective August 30, 2015

This bill, introduced at the request of the Director of Insurance, updates statutes related to credit for reinsurance. The bill updates Nebraska law to reflect the latest changes to the

Credit for Reinsurance Model Law adopted by the National Association of Insurance Commissioners (NAIC).

The bill provides, section by section, as follows:

Section 1 amends section 44-416.06, which establishes when credit for reinsurance is allowed and addresses concentration of risk:

Amended subsection (3) addresses accredited reinsurers and clarifies what a reinsurer must demonstrate to the director to become accredited.

Amended subsection (5) addresses reinsurance ceded to an assuming reinsurer that maintains a trust in a qualified United States financial institution and addresses situations when a principal regulator of the trust may allow for a reduction in the required trust surplus.

New subsection (6) establishes a new category of allowable credit for reinsurance from a certified reinsurer. To become a certified reinsurer, a reinsurer must meet certain requirements. First, the reinsurer must be from a qualified jurisdiction, which will be from a list published by the director of qualified jurisdictions that have an effective reinsurance supervisory system. Such a jurisdiction must cooperate with the director on reinsurance issues and promptly enforce United States judgments. U.S. jurisdictions are considered qualified if accredited through the NAIC. Second, the reinsurer must maintain minimum capital and surplus standards established pursuant to rules and regulations. Third, the reinsurer must maintain financial strength ratings from two or more rating agencies deemed acceptable via rules and regulations. Fourth, the reinsurer must agree to submit to the jurisdiction of Nebraska and must provide securities if it resists enforcement of United States judgments. Fifth, the reinsurer must agree to information filing requirements of the director.

New subsection (6) also addresses associations of incorporated or individual unincorporated underwriters becoming certified reinsurers. It also places the duty on the director to assign a rating for each certified reinsurer and requires the director to publish a list of certified reinsurers and their ratings. A certified reinsurer is obligated to secure obligations at a level consistent with its rating as specified in rules and regulations. The bill provides direction to the certified reinsurer on how to secure its obligations in a variety of situations. Finally, new subsection (6) also addresses NAIC certified reinsurers and inactive certified reinsurers.

New subsection (10) addresses the process of the director suspending or revoking a reinsurer's accreditation or certification. It gives such a reinsurer a right to a hearing and it addresses the credit for reinsurance after a suspension or revocation.

New subsection (11) addresses concentration of risk by requiring a ceding insurer to take steps to manage its reinsurance recoverables proportionate to its own book of business and requires a ceding insurer to diversify its reinsurance program by placing duties to

report to the director when the amount of reinsurance in one reinsurer or group of affiliated reinsurers meets certain thresholds.

Section 2 amends section 44-416.07 by clarifying what securities the director may approve to secure obligations.

Section 3 provides for repeal of the amendatory sections.

The bill passed 47-0-2 on March 6, 2015 and was approved by the Governor on March 12, 2015.

LB341 (Howard) Provide requirements relating to health benefit plan coverage for insureds in jail custody

Pending in Committee

This bill would provide that a health insurer may not deny reimbursement for any covered service or supply or cancel the coverage of an insured because: (a) the insured is in custody pending disposition of charges; (b) the insured receives publicly funded medical care while in custody; or (c) the care was provided to the insured by an employee or contractor of a political subdivision and the employee or contractor meets the credentialing criteria of the health benefit plan.

The bill would provide that an insurer shall reimburse a political subdivision for the costs of covered services or supplies provided to an insured in custody, pending disposition of charges, in an amount not less than 115 percent of the medicare rate for the service or supply.

The bill would provide that the insurer may: (a) deny coverage for the treatment of injuries resulting from a violation of law; (b) exclude covered services provided to an insured in custody from requirements for reporting quality outcomes or performance; (c) impose utilization controls; (d) impose requirements for billing and medical coding; (e) deny coverage of diagnostic tests or health evaluations required for all individuals in custody pending disposition of charges; (f) limit coverage of hospital and ambulatory surgical center services provided to an insured in custody to services provided by in-network hospitals and ambulatory surgical centers; and (g) reimburse an out-of-network renal dialysis facility at the in-network or out-of-network rate for dialysis provided to an insured in custody.

The bill would provide that an insurer may not refuse to credential a health care provider who is an employee or contractor of a political subdivision because the employee or contractor provides services in a facility operated by the political subdivision.

The bill would provide that it does not (a) impair any right of an employer to remove an employee from health benefit plan coverage, (b) release insurers from the requirement to

coordinate benefits, and (c) limit an insurer's right to rescind coverage in accordance with law.

The bill would provide that a political subdivision may not pay health benefit plan premiums on behalf of a person in custody.

The bill would provide that it would apply reimbursement claims on or after January 1, 2015.

LB342 (Howard) Permit insurers to contract for pharmacist professional services

Enacted

Effective August 30, 2015

This bill provides that, on and after January 1, 2016, a health insurer may contract with a licensed pharmacist for pharmacist professional services.

The bill provides (1) that it does not prohibit an insurer from contracting with a licensed pharmacist who is not employed or associated with a pharmacy, and (2) that it does not require a licensed pharmacist to contract with an insurer for pharmacist professional services.

The bill defines "pharmacist professional services" as professional services provided to patients by licensed pharmacists as allowed by law.

The bill passed 46-0-3 on May 20, 2015 and was approved by the Governor on May 26, 2015.

LB451 (Hansen) Change and eliminate provisions relating to stacking of insurance coverage

Pending in Committee

This bill would amend sections 44-6410 and 44-6411 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that no policy of insurance shall prohibit the limits of liability for uninsured or underinsured motorist coverage for two or more motor vehicles insured under the same policy or separate policies from being stacked to determine the limit of coverage available to an injured person for any one accident.

LB456e (Gloor) Change provisions relating to the Nebraska Exchange Stakeholder Commission

Enacted

Effective May 27, 2015

This bill amends section 44-8704 of the Nebraska Exchange Transparency Act to provide that the Nebraska Exchange Stakeholder Commission shall hold at least “three” instead of “four” meetings annually.

The bill passed 47-0-2 with the emergency clause on May 20, 2015 and was approved by the Governor on May 26, 2015.

LB458 (Kolterman) Authorize limited lines travel insurance producer licenses

Speaker Priority Bill

Enacted

Effective August 30, 2015

This bill enacts a new section in the Insurance Producers Licensing Act to provide that the Director of Insurance may issue a new producer license – the limited lines travel insurance producer license. This license will authorize an individual or business entity to sell, solicit, or negotiate travel insurance through a licensed insurer. The bill provides that a travel retailer, its employees, and its authorized representatives may offer and disseminate travel insurance as a service to its customers, on behalf of and under the direction of a holder of a limited lines travel insurance producer license.

The bill provides that the limited lines travel insurance producer shall maintain and update a register of each travel retailer that offers travel insurance on the limited lines travel insurance producer’s behalf. The bill provides that a limited lines travel insurance producer and those registered under the limited lines travel insurance producer’s license are exempt from examination requirements, prelicensing education requirements, and continuing education requirements for producers.

The bill passed 48-0-1 on May 7, 2015 and was approved by the Governor on May 13, 2015.

LB488 (Scheer) Adopt the Transportation Network Insurance Act

Pending in Committee

This bill would require a transportation network company and/or a participating driver to maintain “transportation network company insurance” that includes primary liability coverage, uninsured and underinsured motorist coverages, and collision and

comprehensive physical damage coverages. Liability coverage would be at least five hundred thousand dollars for death, personal injury, and property damage during the “engaged stage” and during the “passengers on board stage.” Liability coverage would be at least twenty-five thousand dollars for death and personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage during the “application open stage.” (Sections 4 and 5) The bill would provide the following definitions: (1) “application open stage” (the time period from the moment the participating driver logs on to the transportation network company’s online enabled application until the driver accepts a request to transport a passenger and from the moment the driver completes the transaction or the passenger exits the vehicle, whichever is later, until the driver either accepts another ride request or logs off); “engaged stage” (the time period from the moment a participating driver accepts a ride request on the transportation network company online-enabled application until the driver completes the transaction or until the passenger exits the vehicle, whichever is later); “insurance policy”; “participating driver” (any person who uses a vehicle in connection with a transportation network company’s online-enabled application to connect with passengers); “passengers on board stage” (the time period when there are passengers in the vehicle pursuant to the driver’s participation in a transportation network company); “transportation network company” (an organization that provides prearranged transportation services for compensation using an online-enabled application to connect passengers with participating drivers using a personal vehicle; and “transportation network company insurance” (an insurance policy that expressly covers loss arising from a participating driver’s use of a personal vehicle in connection with a transportation network company’s online enabled application, including coverages for liability, uninsured motorist, underinsured motorist, collision, and comprehensive). (Section 2)

The bill would provide that it does not limit the liability of a transportation network company arising out of an accident involving a participating driver for an amount above the required insurance coverage. The bill would provide that it does not require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver logs on to the transportation network company’s online-enabled application until the driver logs off or the passenger exits the motor vehicle, whichever is later. The bill would provide that during the period of time from the moment a participating driver logs on to the transportation network company’s online-enabled application until the driver logs off or the passenger exits the motor vehicle, whichever is later, the participating driver’s or the motor vehicle owner’s personal automobile insurance policy shall not provide any coverage to the participating driver, motor vehicle owner, or any third party unless the policy expressly provides for that coverage. (Sections 7, 8, and 9)

Note: LB629 (Mello), as enacted, contains, among other things, provisions similar to those contained in LB488.

LB531 (Kolterman) Provide requirements for publication of insurance information

Pending in Committee

This bill would enact a new section to provide that every policy of health insurance, health plan, or health maintenance organization subscription sold or offered directly to individuals shall provide, prior to purchase, the following information in a clear and understandable format for use in comparing coverage and premiums: (a) any exclusions and restrictions on the use or quantity of covered items and services in each category of benefits, including prescription drugs and drugs administered in a physician's office or clinic; (b) any item or service, including a prescription drug that has a coinsurance requirement, as to which the cost-sharing amount depends on the cost of the item or service; (c) how to determine whether a specific prescription drug is available on a formulary or is a covered item when furnished by a physician's office or clinic and any clinical prerequisites or authorization requirements for a specific prescription drug; (d) the process by which an insured may obtain reversal of a denial of coverage decision with respect to an item or service prescribed or ordered by the treating physician; and (e) a description of how prescription drugs will be included in or excluded from applicability of a deductible.

The bill would require the Department of Insurance to ensure that (a) any web site maintained by a state agency for the sale of health insurance, health plans, or health maintenance organization subscriptions directly to individuals prominently provides links to Internet-based tools and calculators for assisting potential purchasers in accessing the information needed to make informed decisions; and (b) each entity offering health insurance, health plans, or health maintenance organization subscriptions directly to individuals shall post the information required by this bill directly on its own web site and that such information is available to the general public as well as individual insureds.

Note: LR182 (Kolterman) calls on the Banking, Commerce and Insurance Committee to conduct an interim study on what can be done to provide Nebraska consumers the necessary information to enable them to make informed decisions as to which health care plan to purchase.

LB553 (Gloor) Change insurance provisions relating to dental services

Pending in Committee

Currently, section 44-7,105 provides that an individual or group sickness or accident policy, certificate, or subscriber contract; a self-funded employee benefit plan to the extent not preempted by federal law; and a certificate, agreement, or contract to provide limited health services by a prepaid limited health service organization shall not establish or limit any fees charged for dental services that are not covered by the policy, certificate, contract, agreement, or plan. Section 44-3805 of the prepaid dental services statutes

provides that no prepaid dental service plan shall limit any fees charged for services that are not covered by the plan.

This bill would amend both sections to provide that dental services are considered to be covered if the service is one for which full reimbursement is actually provided on a given claim. The bill would further amend both sections to provide that they do not prohibit a policy, certificate, contract, agreement, or plan; or a prepaid dental service plan, as applicable, that does not cover a specific dental plan from offering the covered person an alternative benefit, and in such case the dentist may bill the covered person for the difference between the dentist's fee for the specific dental service provided and the alternative benefit.

LB628 (Schilz) Provide for electronic posting of property and casualty insurance policies and notices related to such policies

Pending in Committee

This bill would enact two new sections to provide procedures for electronic delivery by property and casualty insurers of notices and documents (section 1) and Internet posting of property and casualty insurance policies (section 2).

Subject to consent by a party, (1) any notice to a party or (2) any other document (a) required by law in an insurance transaction or (b) that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means. Delivery of a notice or document in accordance with the bill shall be considered equivalent to any delivery method required under law.

Delivery by electronic means would include (1) delivery to an electronic mail address at which a party has consented to receive notices or documents, and (2) posting on an electronic network or site accessible via an electronic device.

A "party" would mean any recipient of any notice or document required as part of an insurance transaction, including an applicant, an insured, or a policyholder.

LB632 (Scheer) Prohibit employers and associations from precluding certain contracts relating to health benefit plans

Pending on General File

This bill would enact a new section to provide that an employer or association may enter into a contract, agreement, or arrangement with an insurance agent or broker that provides for or results in compensation paid to the agent or broker for the sale of a health benefit plan. The bill would provide that the compensation may be collected by and passed through to the agent or broker by the carrier and shall not be considered premium.

PENDING COMMITTEE AMENDMENTS

The committee amendments pending on General File would provide that a fee paid to an agent or broker for the sale of a health benefit plan shall not exceed ten percent of the total anticipated premium to be paid by the employer or association.

The committee amendments would provide that the term of a contract, agreement, or arrangement entered into under the bill shall not extend past December 31, 2018.

The committee amendments would provide that an insurer shall retain a copy of a contract, agreement, or arrangement entered into under the bill pursuant to the Insurers Examination Act.

Note: LR324 (Kolterman) calls on the Banking, Commerce and Insurance Committee to conduct an interim study on the ability of employers or associations to enter into contracts with an agent or broker for compensation to be paid to the agent or broker for the sale of a health benefit plan.

INVESTMENT FINANCE

LB515 (Craighead) Change an aggregate loan limit for agricultural projects under the Nebraska Investment Finance Authority Act

Enacted

Effective August 30, 2015

This bill amends section 58-242 of the Nebraska Investment Finance Authority Act to provide that, in the case of an agricultural project, the aggregate amount of a loan received by a borrower shall not exceed \$517,700 instead of \$500,000, with such amount to be adjusted in the future for inflation in accordance with federal statutory provisions regarding private activity bonds.

The bill also provides that in computing the aggregate amount of an agricultural loan received by an individual borrower, the loan shall be aggregated with loans received by his or her spouse and only his or her “minor” children (rather than any children).

The bill passed 49-0-0 on May 20, 2015 and was approved by the Governor on May 26, 2015.

LIENS

LB464 (B. Harr) Change information provided on effective financing statements

Enacted

Effective August 30, 2015

This bill amends sections 52-1307, 52-1312, and 52-1317 of the statutes regarding the filing system for farm product security interests to eliminate references to social security numbers and IRS taxpayer identification numbers (1) on effective financing statements and (2) in the effective financing statement master list as compiled by the Secretary of State.

The bill passed 48-0-1 on May 20, 2015 and was approved by the Governor on May 26, 2015.

PARTNERSHIPS

LB247 (Sullivan) Change an interest rate provision in the Uniform Partnership Act of 1998

Enacted

Effective August 30, 2015

This bill amends section 67-405 of the Uniform Partnership Act of 1998 to provide that if an obligation to pay interest arises under the act and the rate is not specified, the rate shall be the judgment rate and not fourteen percent per annum.

The judgment rate as announced by the State Court Administrator is two percentage points above the bond investment yield of the average accepted auction price for the first auction of each annual quarter of the twenty-six-week United States Treasury bills in effect on the entry of judgment.

The bill passed 49-0-0 on February 20, 2015 and was approved by the Governor on February 26, 2015.

REAL ESTATE

LB375 (Craighead) Change provisions relating to broker's price opinions and comparative market analysis

Enacted

Effective August 30, 2015

This bill amends sections 81-885.01 and 81-885.16 of the Nebraska Real Estate License Act to provide that a real estate licensee may give a broker's price opinion or a comparative market analysis for the purpose of real property tax appeals.

The bill passed 47-0-2 on May 20, 2015 and was approved by the Governor on May 26, 2015.

RESIDENTIAL CONTRACTORS

LB223 (B. Harr) Change provisions of the Insured Homeowners Protection Act relating to contractor duties and prohibited acts and provide for a required notice

Pending on General File

This bill would amend the sections of the Insured Homeowners Protection Act, sections 44-8601 to 44-8604.

Section 44-8603 currently provides that a person who enters into a written contract with a residential contractor to provide goods or services may cancel the written contract within three days. The act also currently provides that within ten days after a contract is canceled, the residential contractor shall tender any payments or deposits, except that if the residential contractor has provided goods or services, agreed to in order to prevent damage to the premises, the residential contractor is entitled to be paid for such goods and services. The bill would amend this section to provide that the residential contractor is entitled to be paid for such goods and services if they are provided “to repair damage resulting from a catastrophe.”

The bill would amend section 44-8602 to define “catastrophe” as a natural occurrence, including fire, earthquake, tornado, windstorm, flood, or hailstorm, which damages or destroys real estate.

The bill would amend section 44-8604 to provide that a residential contractor shall not “advertise” as well as promise to rebate any portion of an insurance deductible as an inducement to the sale of goods or services. The bill would further amend this section to provide that a residential contractor may display a sign or other advertisement on a person’s premises if the person consents and the person receives no compensation from the residential contractor for the placement of the sign or advertisement.

The bill would add a new section to the act to require that a notice of contract obligations and rights, as set forth in the bill, shall be signed by the person with whom the residential contractor is contracting prior to or contemporaneously with entering the contract.

The bill would add another new section to the act to provide that a contract entered into with a residential contractor is void if the residential contractor violates the act.

The bill would provide that it becomes operative on January 1, 2016.

PENDING COMMITTEE AMENDMENTS

The committee amendments pending on General File would strike the original sections of the bill and would insert and amend section 44-8604 of the Insured Homeowners Protection Act to provide that:

(1) a residential contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate in an insurance claim; and

(2) a residential contractor shall not take an assignment of an insurance claim relating to (a) the repair or replacement of roof systems or (b) the performance of any other exterior repair, replacement, or reconstruction work on the residential real estate.

SECURITIES

LB226 (Coash) Authorize crowdfunding as prescribed and exempt crowdfunding under the Securities Act of Nebraska

Senator Priority Bill (Murante)

Enacted

Effective August 30, 2015

This bill amends section 8-1111 of the Securities Act of Nebraska to authorize crowdfunding as prescribed and exempts crowdfunding from registration. The bill provides an exemption from registration for Nebraska issuers who chose to issue securities as part of a crowdfunding offering. Crowdfunding is the practice of funding a venture by raising small amounts of money from a large number of people, usually done via the Internet.

The bill relies upon the intrastate exemption from federal securities laws in the Securities Act of 1933 for securities sold only to persons in the same state as the issuer. States have authority to regulate intrastate offerings. Accordingly, the bill requires that crowdfunding issuers must be located in Nebraska and can only sell securities to Nebraska residents, subject to the following conditions:

- (1) The aggregate amount that can be raised is \$1,000,000, except that an issuer may raise up to \$2,000,000 if it has audited financial statements. (Section 8-1111(24)(a)(ii)(A) and (B))
- (2) The maximum amount that can be raised from an investor is \$5,000, except that for accredited investors such limitation does not apply. (Section 8-1111(24)(a)(iv))
- (3) The issuer must make a notice filing with the Nebraska Department of Banking and Finance at least ten days prior to initiating the offering, and must pay a fee of \$200. (Section 8-1111(24)(a)(v)(A) through (C))
- (4) The issuer must enter into an escrow agreement with a financial institution authorized to do business in Nebraska, and must escrow the proceeds until the aggregate amount raised exceeds the minimum amount specified in the escrow agreement. (Section 8-1111(24)(a)(v)(D) through (F) and (x))
- (5) The issuer must provide a disclosure document to potential investors which discloses material information pertaining to the issuer and the offering as set forth in the act. (Section 8-1111(24)(a)(vii) and (xi))
- (6) The issuer must sign an acknowledgment that he or she understands the risky nature of the investment. (Section 8-1111(24)(a)(viii))

(7) The offering must be made through a portal operator registered with the department. (Section 8-1111(24)(a)(xii)(A) and (B))

(8) The issuer must supply a quarterly report regarding its operations to its investors and the department. (Section 8-1111(24)(b))

(9) Portal operators must register with the department and pay a \$200 fee, except that a broker-dealer who also serves as a portal operator must register but does not have to pay the filing fee. (Section 8-1111(24)(a)(xii)(B) and (E)) A portal operator does not need to register as a broker-dealer if it meets the requirements found in section 8-1111(24)(a)(xii)(C).

The bill defines the terms "funding portal" (an Internet web site that is operated by a portal operator for the offer and sale of securities pursuant to the crowdfunding exemption) (Section 8-1111(24)(f)(ii)) and "portal operator" (an entity authorized to do business in this state which operates a funding portal and has registered with the Department of Banking and Finance as required by the bill). (Section 8-1111(24)(f)(iv))

The bill passed 48-0-1 on May 21, 2015 and was approved by the Governor on May 27, 2015.

LB252 (Schumacher) Change provisions relating to registration by coordination and federal covered securities under the Securities Act of Nebraska

Enacted

Effective August 30, 2015

This bill was introduced at the request of the Director of Banking and Finance.

The bill amends section 8-1106 of the Securities Act of Nebraska to permit an issuer of securities registering by coordination to file only one copy of its prospectus with the Department of Banking and Finance rather than the currently required three copies. The department has determined that one copy is sufficient for review and record-keeping. The proposal is intended to save issuers copying costs. (Section 1)

In 2013, the Nebraska Legislature amended section 8-1108.02 of the Securities Act of Nebraska to reflect changes Congress made to the federal Securities Act of 1933 through the Jump-start Our Business Start-ups Act ("JOBS Act"). Section 8-1108.02 requires issuers to file documents with the department relating to federally covered securities, which are exempt from state registration requirements by federal law. The 2013 amendments provided authority to the department to require a notice filing and set a \$200 fee with respect to the initial offer of securities pursuant to federal Rule 506. (Rule 506 is a private offering exemption allowing sales to up to 35 non-accredited investors and an unlimited number of accredited investors. No general advertising or solicitation is permitted.) A question had been raised as to whether the 2013 amendments inadvertently

omitted or removed the authority of the department to require notice to the department of additional filings made with respect to such offerings. According to the department, this argument could have been made, so the bill's amendments to section 8-1108.02 are intended to remedy this issue. (Section 2)

The bill passed 47-0-2 on February 27, 2015 and was approved by the Governor on March 5, 2015.

SOCIAL SECURITY NUMBERS

LB115 (Scheer) Prohibit certain actions related to social security numbers

Pending in Committee

This bill would enact a new section to provide that no individual shall be required to disclose or furnish his or her social security number or shall be refused any service, privilege, or right because he or she refuses to disclose or furnish his or her social security number. The bill would provide exceptions for when: the individual gives consent; the social security number is required by federal, state, or local law; or the social security number is used for a criminal history background check by an employer or volunteer service organization.

**BANKING, COMMERCE AND INSURANCE COMMITTEE
INTERIM STUDY RESOLUTIONS
2015**

LR182 (Kolterman) Interim study to investigate and make recommendations regarding what can be done to provide Nebraska consumers the necessary information to enable them to make informed decisions as to which health care plan to purchase

LR233 (Howard) Interim study to examine payday loans and other short-term lending practices where high interest rates are charged and collected from customers

LR258 (Johnson) Interim study to determine whether the Real Property Appraiser Act should be amended

LR263 (B. Harr) Interim study to examine possible changes to the Nebraska Model Business Corporation Act

LR324 (Kolterman) Interim study to analyze the ability of employers or associations to enter into contracts with an agent or broker for compensation to be paid to the agent or broker for the sale of a health benefit plan

REPORT ON THE PRIORITIZING
OF INTERIM STUDY RESOLUTIONS
Pursuant to Rule 4, Section 3(c)

COMMITTEE: Banking, Commerce and Insurance

DATE: May 28, 2015

The following resolutions were referred to the Committee on Banking, Commerce and Insurance. The committee has prioritized the resolutions in the following order:

<u>Resolution No.</u>	<u>Subject</u>
LR258	Interim study to determine whether the Real Property Appraiser Act should be amended
LR263	Interim study to examine possible changes to the Nebraska Model Business Corporation Act
LR324	Interim study to analyze the ability of employers or associations to enter into contracts with an agent or broker for compensation to be paid to the agent or broker for the sale of a health benefit plan
LR233	Interim study to examine payday loans and other short-term lending practices where high interest rates are charged and collected from customers
LR182	Interim study to investigate and make recommendations regarding what can be done to provide Nebraska consumers the necessary information to enable them to make informed decisions as to which health care plan to purchase